

AGENDA MEMO

CITY COUNCIL MEETING DATE: JANUARY 21, 2009

DEPARTMENT: PLANNING AND DEVELOPMENT

**ITEM DESCRIPTION: SUP-31739 - APPLICANT: METROPCS NEVADA, LLC -
OWNER: MOFFAT FAMILY TRUST**

**** CONDITIONS ****

The Planning Commission (5-0-1/rt vote) and staff recommend DENIAL.

Planning and Development

1. Conformance to all minimum requirements under LVMC Title 19.04.010 for a Wireless Communications Facility, Non-Stealth Design use.
2. All development shall be in conformance with the site plan and elevation, date stamped 11/21/08, and the photo simulation date stamped 11/04/08, except as amended by conditions herein.
3. This approval shall be void one year from the date of final approval or upon approval of a final inspection. An Extension of Time may be filed for consideration by the City of Las Vegas.
4. The razor wire on the perimeter wall shall be removed within 30 days of the approval of this Special Use Permit.
5. The communications monopole and its associated equipment and facility shall be properly maintained and kept free of graffiti at all times. Failure to perform the required maintenance may result in fines and/or removal of the communications monopole and its associated equipment and facility.
6. All City Code requirements and design standards of all City departments must be satisfied, except as modified herein.

**** STAFF REPORT ****

PROJECT DESCRIPTION

This is a request for a Special Use Permit to allow a 13-foot extension of an existing 45-foot Wireless Communications Facility, Non-Stealth Design (monopole) at 2120 Paradise Road. The proposed additional height of the non-stealth facility will result in a much greater visual intrusion on the surrounding community, and will not be harmonious with the surrounding uses; therefore, staff is recommending denial of the Special Use Permit request.

BACKGROUND INFORMATION

<i>Related Relevant City Actions by P&D, Fire, Bldg., etc.</i>	
01/14/08	Staff denied a Minor Review (SDR-25881) for a proposed 10-foot extension and co-location of antennas on an existing Wireless Communications Facility, Non-Stealth at 2120 Paradise Road.
12/18/08	The Planning Commission voted 5-0-1/rt to recommend DENIAL (PC Agenda Item #17/sg).
<i>Related Building Permits/Business Licenses</i>	
07/24/01	A permit (#1013337) was issued for a cellular tower at 2120 Paradise Road. The permit was finalized on 10/16/01.
08/14/01	A permit (#1014721) was issued for a block wall at 2120 Paradise Road. The permit expired on 02/16/02.
01/18/02	A non-work certificate of occupancy (#2001019) was issued for 2120 Paradise Road, Suite #110. The permit was finalized on 01/30/02.
10/18/02	A business license (M03-00077) was issued for a Massage Establishment at 2120 Paradise Road. The license is still active.
01/22/08	An application for a building permit (#106447) was submitted for the review of an extension of an existing Wireless Communications Facility at 2120 Paradise Road. The Planning and Development Department denied the application on 01/24/08 as the proposed structure required a Special Use Permit.
<i>Pre-Application Meeting</i>	
09/11/08	A pre-application meeting was conducted to discuss the requirements for a Special Use Permit to allow the extension of a Wireless Communications Facility, Non-Stealth (monopole).
<i>Neighborhood Meeting</i>	
A neighborhood meeting was neither required nor held for this application.	

Field Check	
12/01/08	A field check of the site was conducted by staff. The site was clean and well kept, with the exception of some debris that was caught in the razor wire on top of the block wall surrounding the existing communications facility.

Details of Application Request	
Site Area	
Gross Acres	0.26

Surrounding Property	Existing Land Use	Planned Land Use	Existing Zoning
Subject Property	Massage Establishment and Wireless Communication Facility, Non-Stealth	C (Commercial)	C-1 (Limited Commercial)
North	Vacant	C (Commercial)	C-1 (Limited Commercial)
South	Vacant	C (Commercial)	C-1 (Limited Commercial)
East	Office	C (Commercial)	C-1 (Limited Commercial)
West	Office	C (Commercial)	C-2 (General Commercial)

Special Districts/Zones	Yes	No	Compliance
Special Area Plan	X		
Beverly Green / Southridge Neighborhood Plan	X		N*
Special Districts/Zones	Yes	No	Compliance
Special Purpose and Overlay Districts	X		
G-O (Gaming Enterprise Overlay) District	X		Y
A-O (Airport Overlay) District (175 Feet)	X		Y
Trails		X	N/A
Rural Preservation Overlay District		X	N/A
Development Impact Notification Assessment		X	N/A
Project of Regional Significance		X	N/A

**The Beverly Green/Southridge Neighborhood Plan was adopted by City Council on 08/06/03. One of the stated goals was to have 100% of properties in the neighborhoods up to the City of Las Vegas minimum code standards within three years of the plan's adoption. The existing Wireless Communications Facility, Non-Stealth Design is a non-conforming structure, and therefore does not meet the current minimum code standards. A stealth design for this site would bring the facility into compliance with the current Title 19 standards.*

ANALYSIS

This is a request for a Special Use Permit for the extension of an existing Wireless Communications Facility, Non-Stealth Design. The applicant is proposing a 13-foot extension of the existing monopole in order to facilitate the collocation of antenna arrays for two additional communications carriers. The existing antenna array will remain at the 43-foot centerline height, with the additional arrays attached at the 50 and 55-foot centerline heights. The existing facility is surrounded by a 7-foot block wall, topped with an additional foot of concertina razor wire. The razor wire has not been permitted, and is not allowed under Title 19.12.075, unless approved as part of an overall development plan. A condition has been added to require the removal of the razor wire.

The subject site is surrounded by commercially zoned property; therefore, Title 19.08.060 Residential Adjacency Standards do not apply; however, the non-stealth monopole will be highly visible from the surrounding community due to the additional height proposed, and will not be harmonious or compatible with the area; therefore, staff is recommending denial of this request.

- **MINIMUM SPECIAL USE PERMIT REQUIREMENTS**

Wireless Communication Facility, Non-Stealth Design:

- *1. No residential use may exist on the property.
- *2. Any antenna tower that forms part of the facility shall conform with both the setback requirements of the zoning district and the separation requirements of Section 19.08.060.
- *3. Except in the C-V Zoning District, no antenna tower that forms part of a facility may be located within 600 feet of:
 - a. Any other antenna tower that forms part of a wireless communication facility; or
 - b. Any pole or tower structure of any other type that has a height of at least 60 feet.
- *4. Antenna towers and associated components shall be initially painted and thereafter repainted with a flat paint, using a color that is approved by the City Council. Except as otherwise required by the Federal Communications Commission or the Federal Aviation Administration, the color of any antenna tower must generally match the surroundings or background so as to minimize its visibility.
- *5. Failure to perform necessary maintenance and repainting shall be grounds for administrative and other enforcement action pursuant to Requirement 9 below.

- *6. Any proposed antenna tower must be designed to accommodate at least two communication providers or, in the case of a tower that exceeds 80 feet in height, at least 3 communication providers.
- *7. No signals, lights, or other attention gaining devices are permitted on any antenna tower or antenna unless required by the Federal Communications Commission or the Federal Aviation Administration; provided, however, that this condition shall not be construed to prevent the mounting of an antenna on a signal, light or sign that has been legally permitted and installed.
- *8. All ground level equipment, buildings and the base of any antenna tower must be screened so as to not be visible from streets and residences, with appropriate landscaping designed to ensure compatibility with surrounding uses.
- *9. Any abandoned or unused antenna tower, and the associated components of any facility, shall be removed within 6 months after operations at the site cease. In the event that removal is not timely performed, the City may remove, or cause the removal of, the antenna tower and associated components, and assess the costs of removal against the property. Before taking such action, the City must deliver or mail to the property owner a notice of the City's intent to do so. The property owner shall have 30 days from the date notice is delivered or mailed to request a hearing. The failure to request a hearing shall be deemed to be a waiver of the right to be heard, and the City may immediately cause the removal of the antenna tower and any associated components, and may assess the costs against the property.

Per Title 19.04.050, it shall not be permissible to waive any Special use Permit requirement that is listed in Table 2 with an asterisk ().

The existing facility does not meet the requirements of 2 and 3 above as the monopole is located within the 10-foot side yard setback area required in a C-1 zone, and the facility is located within 600 feet of another Wireless Communications Facility, Non-Stealth Design at 2412 Santa Clara Drive (approximately 580 feet). The facility was constructed in 2001, one year prior to the adoption of Ordinance 5436, which amended Title 19 and added the requirement for a Special Use Permit for a Wireless Communications Facility, Non-Stealth Design, thereby making this facility a non-conforming structure subject to the regulations of Title 19.16.

- **ADDITIONS TO NON-CONFORMING BUILDINGS**

Per Title 19.16.030(C), the Director may approve additions to nonconforming buildings when the nonconformance is a result of inadequate setbacks and provided that the addition conforms to all other provisions of this Title. The addition shall not encroach beyond the

encroachment of the existing building, must be located in either a side or rear yard, and must not encroach more than fifty percent. In addition, the total of all such additions or enlargements shall not exceed more than fifty percent of the size of the original footprint of the structure.

The proposed extension will not result in any additional encroachment for setbacks or distance separation as the location of the facility will not change. The proposed extension will result in a 29% increase in the height of the monopole, from 45 feet to 58 feet.

FINDINGS

In order to approve a Special Use Permit application, per Title 19.18.060 the Planning Commission and City Council must affirm the following:

1. **“The proposed land use can be conducted in a manner that is harmonious and compatible with existing surrounding land uses, and with future surrounding land uses as projected by the General Plan.”**

The proposed extension of the existing monopole will not be harmonious or compatible with surrounding land uses in that the facility will become more visible and intrusive; a stealth design would better serve the area. The existing use of a Wireless Communications Facility, Non-Stealth Design is consistent with the surrounding C (Commercial) General Plan designation.

2. **“The subject site is physically suitable for the type and intensity of land use proposed.”**

The subject site is not physically suitable for the intensity of the proposed use in that the location does not meet the current minimum distance separation of 600 feet from another Wireless Communications Facility, Non-Stealth Design.

3. **“Street or highway facilities providing access to the property are or will be adequate in size to meet the requirements of the proposed use.”**

The site is accessed by Paradise Road, an 80-foot Major Street as designated by the Master Plan of Streets and Highways. Secondary access is provided by an alley at the rear of the property. Site access is adequate because a Wireless Communications Facility, Non-Stealth Design has minimal traffic associated with the use.

4. **“Approval of the Special Use Permit at the site in question will not be inconsistent with or compromise the public health, safety, and welfare or the overall objectives of the General Plan.”**

The public health, safety and welfare will not be compromised as the proposed extension to the existing monopole will be subject to permit review and inspections. The use is consistent with the existing C (Commercial) General Plan designation.

5. The use meets all of the applicable conditions per Title 19.04.

The use does not meet all the current requirements for a Special Use Permit for a Wireless Communications Facility, Non-Stealth Design, including minimum setback and distance separation requirements. However, the existing facility is a non-conforming structure, and is therefore subject to Title 19.16 requirements for additions to non-conforming structures. The proposed addition meets these requirements.

NEIGHBORHOOD ASSOCIATIONS NOTIFIED 13

ASSEMBLY DISTRICT 9

SENATE DISTRICT 10

NOTICES MAILED 155 by City Clerk

APPROVALS 0

PROTESTS 0